

PATENT TO SOUTH DAKOTA FOR CERTAIN LANDS IN
CUSTER STATE PARK

JANUARY 28, 1925.—Committed to the Committee of the Whole House on the
state of the Union and ordered to be printed

Mr. WINTER, from the Committee on the Public Lands, submitted
the following

REPORT

[To accompany H. R. 11077]

The Committee on the Public Lands, to whom was referred H. R. 11077, entitled "A bill authorizing the issuance of patent to the State of South Dakota for park purposes of certain lands within the Custer State Park now claimed under the United States general mining laws, and for other purposes," having considered the same report thereon with a recommendation that it do pass with the following amendments:

Page 1, line 5, after word "title," insert a comma and the following: "but reserving the minerals therein."

Page 1, line 9, after word "acres" insert "upon payment to the United States of \$1.25 per acre therefor, and."

Page 2, line 1, after the word "State," where it occurs the first time, insert the words "or have been abandoned."

Page 2, line 4, strike out the colon after the word "use" and insert a period and the following:

The United States reserves all coal, oil, gas, or other minerals in the lands patented under this act, with the right, in case any of said patented lands are found by the Secretary of the Interior to be more valuable for the minerals therein than for park purposes, to provide, by special legislation, having due regard for the rights of the State of South Dakota, for the disposition and extraction of the coal, oil, gas, or other minerals therein.

The Harney National Forest was created by proclamation of the President of May 16, 1911 (37 Stat. 1680), under authority of the act of June 4, 1897 (30 Stat. 36).

Section 2275 of the United States Revised Statutes provides, in substance, that where sections 16 or 36 granted for school purposes to a State are included within any Indian, military, or other reservation the State may select an equal acreage in satisfaction thereof. The lands selected must be nonmineral in character.

The State of South Dakota, through its proper officers, indicated that it desired to make selections in a body under the above-mentioned law of lands within the boundaries of the Harney National Forest. An agreement was reached between the Department of Agriculture and the State authorities on January 4, 1910, that certain lands should be eliminated from the Harney Forest in order that the State selections therefor might be made. This elimination took place by proclamation of the President of February 15, 1912 (37 Stat. 1729). The State thereupon selected all of the legal subdivisions within townships 3 and 4 south, range 6 east, and the east two-thirds of townships 3 and 4 south, range 5 east, Black Hills meridian, which were unaffected by mining locations and, therefore, were considered nonmineral in character. The State's selection of these lands has been approved. The lands so selected lie within the boundaries of what is now designated as the Custer State Park, an area of approximately 61,440 acres. Of this entire amount 1,679.39 acres remained in public ownership. These are the lands which the State would be authorized to acquire under House bill 11077. Not all of these lands are necessarily mineral in character. It is probable that less than half of the area is affected by mining locations, and the actual value of the lands for their mineral deposits is, of course, problematical.

DEPARTMENT OF THE INTERIOR,
Washington, January 17, 1925.

Hon. N. J. SINNOTT,
*Chairman Committee on the Public Lands,
House of Representatives.*

MY DEAR MR. SINNOTT: I am in receipt of your request for report on H. R. 11077, which proposes to permit the State of South Dakota to obtain title from the Government for not exceeding 2,000 acres of unpatented lands held under mining locations in parts of four townships within the Custer State Park, South Dakota, upon the acquisition by the State of the right, title, and interest of mineral claimants. The lands so granted are to be used for park purposes, and to revert to the United States in the event of failure of the State to so hold and use them.

Ordinarily, in grants made to States or to municipalities for park purposes, minerals are reserved. In this case, however, it is the desire of the State to eliminate private possessory holdings within the Custer State Park owned and claimed under the United States general mining laws, the lands so acquired by the State, after compensating mineral claimants, to be held, used, and administered as a part of the State park. I am informally advised that mining claims alleged to contain gold are probably of small value.

The importance of complete control over all lands within the limits of either a national or a State park by the agency administering same is recognized, and if these mineral claimants are willing to dispose of their interests to the State, this department has no objection to the State's acquiring the Government's title thereto, vesting in the State complete ownership and control of the entire area within the park.

I am advised, however, that it has been the uniform practice of Congress, in enacting legislation granting lands for this and analogous purposes to States, counties, or municipalities, to require the payment to the United States of \$1.25 per acre, and it would seem that the same practice should be followed in this instance. To this end, I suggest that the bill be amended by inserting in line 9, after the word "acres," the following: "upon payment to the United States of \$1.25 per acre therefor, and."

Very truly yours,

HUBERT WORK.